

**WEST AMWELL TOWNSHIP
PLANNING BOARD MEETING
October 18, 2011**

The West Amwell Township Planning Board meeting was called to order at 7:33 PM by Chairman Pfeiffer followed by the salute to the flag.

The following statement of compliance with the Open Public Meetings Act as listed on the meeting agenda was read into the record by Chairman Pfeiffer: This meeting was called pursuant to the provisions of the Open Public Meetings Act. This meeting was included in a list of meetings transmitted to the Hunterdon County Democrat and Trenton Times on January 27, 2011. Notice has been posted on the bulletin board at Town Hall on October 13, 2011, and has remained continuously posted as to required notices under the Statute. A copy of this notice is available to the public and is on file in the Office of the Planning Board and Township Clerk.

The following general policy statement of the Board was read into the record by Chairman Pfeiffer: The Board's general policy is to end the presentation of testimony on applications by 10:30 PM and to conclude all Board business by 11:00 PM. When necessary, the Chair may permit a reasonable extension of those time limits.

The meeting was recorded via digital recording system and a copy of the CD is on file in the Office of the Planning Board.

Attendance – Roll Call

Present: Lonnie Baldino
George Fisher
John Haug
Tom Molnar
Sean Pfeiffer
Hal Shute
Chester Urbanski
Joan Van der Veen
Rob Tomenchok – Alt. #1
Attorney Shurts

Excused: Stephen Bergenfeld
Nella Hamtil – Alt. #2

Approval of Bill List

A motion by Fisher, seconded by Van der Veen to approve the vouchers for payment as listed on the bill list was unanimously approved by roll call vote.

Resolutions of Approval

Resolution PB#2011-11: Spectra Corporation (Formerly Texas Eastern) – Block 5 Lot 6 – Major Site Plan Review

Attorney Shurts explained that the applicant's Attorney Edwin Landis had made some technical and grammatical changes to the draft Resolution he sent out for review. Attorney Shurts noted he had no issues with any of the suggested revisions.

Mr. Fisher asked why the applicant's name changed from Spectra to Texas Eastern. Attorney Shari was present at the meeting on behalf of the applicant and explained that the corporate structure is very complicated and for the purpose of accuracy in the Resolution the proper name of the applicant should be Texas Eastern Transmission LP an indirect wholly owned subsidiary of Spectra Energy Corporation.

Mr. Fisher asked what impact the improvements on the site will have to the Township's tax rolls. Attorney Shari indicated he did not know but stated he would try to find out.

Ms. Van der Veen asked about the Federal Exemption status regarding the applicant. Attorney Shurts explained that he and Township Attorney Faherty have reviewed this matter and they are both satisfied that the pre-emption doctrine provided by Attorney Landis applies to this applicant based on the case law cited. Zoning Officer Baldino disagrees with the Federal Exemption and believes the applicant still needs to comply with local zoning/construction requirements. Mr. Baldino commented that he is currently working on trying to get the State's Bureau of Regulatory Affairs/Department of Community Affairs to provide something in writing so that everyone is on the same page regarding Federally Regulated applicants. He stated that the current regulations under the Uniform Construction Code (UCC) require this applicant to obtain building permits. Attorney Shari remarked that his client has advised him that they intend to obtain all necessary permits.

Mr. Fisher asked who inspects the buildings. Mr. Baldino commented that Texas Eastern currently has independent inspectors on site from an outside agency and they will likely provide the Township's building department with a copy of their final inspection report(s) for the Township's files.

A motion by Haug, seconded by Van der Veen to approve Resolution PB#2011-11 as revised was approved by roll call vote with Baldino and Urbanski abstaining.

Unfinished Business

Public Hearing – Adoption of Economic Plan Element as an Amendment to the Township's Master Plan

Attorney Shurts noted that the public noticing was done in accordance with the Municipal Land Use Law (MLUL) requirements and indicated the Board had jurisdiction to proceed with the public hearing.

Mr. Shute commented that the last page of the Economic Plan Element should be labeled Appendix I. The Board agreed with the clarification.

Chairman Pfeiffer opened the floor to public comment. Seeing no members of the public come forward, a motion by Van der Veen, seconded by Fisher to close to the public on this matter was unanimously approved by voice vote.

A motion by Fisher, seconded by Van der Veen to adopt the Economic Plan Element as an amendment to the Township's Master Plan was unanimously approved by roll call vote.

A motion by Haug, seconded by Baldino to approve related Resolution PB#2011-12: Master Plan Amendment – Economic Plan Element was unanimously approved by roll call vote.

Discussion – Conditional Use Ordinance Review – Status Update

Chairman Pfeiffer explained that the Township Committee reviewed this Ordinance and Mr. Molnar indicated he needed additional time to read through the amendments. Chairman Pfeiffer asked if there were any more suggested revisions. Mr. Fisher noted some minor changes.

A motion by Van der Veen, seconded by Urbanski recommending the Township Committee introduce the Conditional Use Ordinance as revised was approved with Mr. Molnar abstaining.

Chairman Pfeiffer noted he will make the suggested revisions and forward a clean copy of the Ordinance to Clerk Olsen.

Continued Discussion on Conditional Use Ordinance Sections 109-99 through 109-115

Chairman Pfeiffer remarked that the Board reviewed specific requirements for these conditional uses last month and asked if there were any additional comments. He stated Planner McManus had looked over the Board's suggestions and made a few minor changes. The follow highlights were noted:

Section 109-99: Riding Academy, Livery or Boarding Stable – Letter E will read: All structures, facilities, parking and loading areas shall be set back a minimum of 150' from the front property line and 150' from the side and rear property lot lines, only if the adjacent properties are located within a residential zone district. Otherwise the setback for the side and rear lot lines shall be 50' or located within the building setbacks for the zoning district, whichever is greater.

Section 109-100: Bed-and-Breakfast Guest House – Letter C will read: The bed-and-breakfast guest house must maintain a residential appearance. It was noted the language restricting external renovations/changes to those permitted by the State and/or other governmental agencies for safety reasons was eliminated because Planner McManus had indicated that the Township may want to permit alterations otherwise bed-and-breakfast property owners may need ("d") variance approval for reasonable renovations and/or maintenance.

Section 109-101: Veterinary Office or Clinic – Language will be added to prohibit outdoor animal pens and the existing language regarding the 150' property line setbacks as well as the 15 dog maximum will be deleted.

Section 109-102: Landscape Contractor with Plant Nursery, with or without Retail Sales – Letter D will read: All structures, facilities, parking and loading areas shall be set back a minimum of 100' from the front property line and 100' from the side and rear property lot lines, only if the adjacent properties are located within a residential zone district. Otherwise the setback for the side and rear lot lines shall be 50' or located within the building setbacks for the zoning district, whichever is greater. Letter F will read: A landscaped buffer of 20' in width shall be required along rear and side yard lot lines of the site only if rear and side yard lots abut properties in a residential zone district.

Section 109-103: Farmers' Market – The description will read: A market consisting of booths and stalls to sell produce and farm products to the general public may be permitted subject to the following provisions. It was also noted that there will be no minimum stall size.

Section 109-106: Nursing Homes and Intermediate Care Centers – The specifications for intermediate care centers in Letter G will be removed and Letter H will read: All required state licenses and certifications shall be renewed as required, and evidence of such renewals filed with the Township Clerk.

Section 109-107: Public and Quasi-Public Schools and Institutions of Higher Learning – Language will be added to include parochial schools.

Section 109-110: Hotels and Motels – Letter B will read: Buildings shall be set back a minimum of 100' from exterior property lot lines, or located within the building setbacks for the zoning district, whichever is greater.

Section 109-111: Congregate Care Centers – There was discussion on the difference between congregate care centers and nursing homes/intermediate care centers. Chairman Pfeiffer commented that the Board can review removing some of these types of facilities from the schedule at some point but recommended the Ordinance be corrected now to include adequate standards so the Township isn't liable and noted that when the schedule is reviewed the Board can omit congregate care centers from all districts if they see fit. The Board agreed to leave this section as revised per Planner McManus.

Section 109-113: Hospitals – It was noted that as long as hospitals are contained in the schedule, there must be standards. Chairman Pfeiffer commented that Planner McManus suggests the Board consider eliminating hospitals as a conditional use entirely. The Board agreed and noted that for the time being they will correct the Ordinance to establish better standards and consider removing hospitals from the schedule at a later date.

Section 109-115: Places of Worship – Chairman Pfeiffer noted that at last month's meeting Mr. Bergenfeld had suggested the language regarding maximum building height requirements be removed so places of worship will be subject to the Township's general height requirements, however Planner McManus had suggested the Board keep the statement that spires, belfries towers and steeples not be subject to height limitations since they are architectural details which typically exceed maximum building height standards, are hard for a Board to deny and are often part of the typical rural landscape. Mr. Urbanski suggested striking the entire paragraph. Attorney Shurts commented that it is not a bad idea to have these applications go to the Board of Adjustment so reasonable height limitations can be applied to each application. It was the consensus of the Board to delete this paragraph (letter D) entirely.

A motion by Urbanski, seconded by Haug recommending the Township Committee introduce these sections of the Conditional Use Ordinance as revised was unanimously approved by roll call vote.

Chairman Pfeiffer noted that Mr. Baldino is still reviewing conditional use standards for fast food restaurants and also stated that the Board will need to review standards for golf courses at some point in the future.

Discussion – Renewable Energy Ordinance Definitions – Recommendation from Environmental Commission – Status Update

Ms. Van der Veen commented that the Environmental Commission is recommending the definition for major solar facilities be consistent with the State's definition. Chairman Pfeiffer questioned whether or not the definition was truly consistent since the Environmental Commission had added language regarding minimum height standards for fencing. He stated the problem he sees is that fence standards have not been defined for accessory uses. Mr. Tomenchok remarked that fencing/safety requirements for solar facilities are all governed by the National Electrical Code and by the UCC. He explained that a few solar panels charging a bank of batteries does not have the same physical barrier requirements as a commercial solar facility. Attorney Shurts commented that it is not a good idea for the Board to countermand anything the State has said with regard to solar facilities. It was the consensus of the Board to omit the fencing guidelines suggested by the Environmental Commission.

Mr. Tomenchok commented on Cadmium Telluride solar panels saying there is nothing wrong with allowing them and remarked that the Environmental Commission may wish to re-review this. Chairman Pfeiffer explained that Cathy Urbanski of the Environmental Commission researched these types of panels fairly extensively and she believes them to be dangerous. Mr. Tomenchok respectfully disagreed based on his knowledge in semi-conductor physics. Mr. Fisher along with other Board Members indicated they had also heard that Cadmium Telluride panels were dangerous and not as efficient as other types of solar panels.

Ms. Van der Veen commented that she will review this matter with the Environmental Commission and get back to the Board.

Mr. Shute commented that with regard to fencing solar facilities, it is normally done as a matter of security rather than for safety.

Discussion – Section 109-4 Definitions – Status Update

It was noted that Mr. Baldino is still working on establishing definitions for Section 109-4.

Discussion – Section 109 Schedule 3 – Schedule of Permitted Uses – Status Update

It was noted that Mr. Baldino is still working on the schedule of permitted uses.

New Business

Discussion – Section 109-250 – Penalties

Mr. Baldino explained that he would like to increase the penalty fees on code violations to keep current with the times. He noted the UCC has raised their fines up to \$2000 to deter people from moving forward on projects with the philosophy that potential fines are simply the cost of doing business. It was the consensus of the Board to increase the penalty fees per Mr. Baldino's request.

A motion by Haug, seconded by Urbanski recommending the Township Committee introduce an Ordinance increasing the penalty fees was unanimously approved by voice vote.

Chairman Pfeiffer noted he will put the information in ordinance form and send it to Clerk Olsen.

Correspondence

It was noted that there were no comments made by any Board Members on any of the correspondence listed on the agenda.

Mr. Fisher provided an update on the school/municipal solar project which the Board reviewed a few months ago. He stated the project is being held up by the New Jersey Department of Environmental Protection (NJDEP) and the D&R Canal Commission and indicated permits are said to be forthcoming by the end of the year and construction will follow, weather permitting. Mr. Shute added that revised site plans will be submitted for the file because changes have been made to the panel configuration.

Specifically, they will run in an "L" shape rather than diagonally and the solar array on the municipal property will be located behind the septic system.

Attorney Shurts was excused from the meeting at this time, 9:45 PM.

Approval of Minutes

A motion by Urbanski, seconded by Haug to approve the Board's minutes from 9/20/11 with no revisions noted was unanimously approved by voice vote.

Adjournment

A motion by Molnar, seconded by Baldino to adjourn the meeting was unanimously approved by voice vote.

The meeting adjourned at 9:46 PM.

Maria Andrews, Planning Board Secretary